

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

White Bear Yacht Club,  Plaintiff,  v.  The Cincinnati Insurance Company,  Defendant.	Case No. 21-CV-1741 (SRN/HB)       <b>ORDER</b>
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Bradley K. Hammond and Timothy D. Johnson, Smith Jadin Johnson, PLLC, 7900 Xerxes Avenue, Suite 2020, Minneapolis, MN 55431, for Plaintiff.

Anthony J. Kane and Jessica K. Allen, Pfefferle Kane LLC, 100 North Sixth Street, Suite 600a, Minneapolis, MN 55403, for Defendant.

SUSAN RICHARD NELSON, United States District Judge

This matter is before the Court on the parties’ request that the Court select a neutral umpire for an appraisal [Doc. Nos. 51, 52]. Based on a review of the files, submissions, and proceedings herein, and for the reasons below, the Court **GRANTS** the parties’ requests to select a neutral umpire.

**I. DISCUSSION**

The insurance policy provides that “each party will select a competent and impartial appraiser” and that those “appraisers will select an umpire.” (Affidavit of Bradley K. Hammond [Doc. No. 15] Ex. 5 (the “Policy”) at 57.) However, “[i]f they cannot agree, either may request that selection be made by a judge of a court having jurisdiction.” (*Id.*)

Here, the parties have selected appraisers, but “the appraisers have failed to appoint an umpire.” (Pl.’s Mem [Doc. No. 14] at 1–2.) Plaintiff White Bear Yacht Club exercised its rights under the insurance policy to request the Court to select an umpire. (Pl.’s Mot. Compel Appraisal and Appoint a Neutral Umpire [Doc. No. 13].) The Court denied the motion in part as moot and in part without prejudice [Doc. No. 50], ordering the parties to select a neutral umpire by February 22, 2022. However, the parties’ appraisers were still unable to select a neutral umpire, and, therefore, the parties requested that the Court select a neutral umpire. (*See* Pl.’s Feb. 22, 2022 Letter (“We are requesting that the Court appoint Scott Moe as umpire . . . .”); Def.’s Feb. 22, 2022 Letter (“Cincinnati requests the Court either appoint Mr. Phillips . . . .”).) Accordingly, the Court ordered the parties to submit, by separate letters, three proposed umpires [Doc. No. 53]. In response, the parties filed letters with the Court and both parties recommended Mr. Mark J. Heley as an umpire [Doc. Nos. 54, 55].

The Court finds that Mr. Mark J. Heley is the most suitable candidate to serve as the neutral umpire in this matter.

## II. CONCLUSION

Based on the submissions and the entire file and proceedings herein, **IT IS HEREBY ORDERED** that Mr. Mark J. Heley shall serve as the neutral umpire in this matter.

Dated: March 10, 2022

s/ Susan Richard Nelson  
SUSAN RICHARD NELSON  
United States District Judge